

*Personnel 13*

DO

58-1827

LS 6-1036a

OGC Has Reviewed

16 May 1956

MEMORANDUM FOR: SSA/DDS

SUBJECT: Military Staff Agent - Agency Reimbursement  
for Disability Retirement Pay Forfeited by  
Reason of Recall to Active Duty

1. A memorandum of 7 May from the Chief, SE/Personnel, requests authority to include in a military staff agent's letter of authorization a provision that an amount equal to the difference between his military salary plus allowances and his combined civilian salary and retirement pay plus allowances will be paid to him on active duty.

2. We are replying to you because the request presents a problem which goes to the heart of our concept of staff agents and is of general application to covert operations. The individual concerned is now a GS-13 staff employee drawing disability pay of \$354 per month as a retired Lieutenant Colonel. Since he was retired from the Army for combat disability, he is not subject to the statutory prohibitions against dual compensation and the retirement portion is not subject to income tax. However, upon recall to active duty, the Army will automatically forfeit his disability retirement pay.

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4. Similarly, as a civilian employee we believe the individual is clearly entitled to his disability retirement pay on a tax-free basis. The fact that this brings us into conflict with the technical application of certain other statutes has been considered, and we see no alternative but to disregard those technicalities. One aspect, however, may be beyond our control and should be considered and provided for before action is taken. It is conceivable that upon [redacted] and resumption of his retired status on the record, a review of his case for a ruling as to entitlement to disability pay might be required, and it is possible that a ruling adverse to resumption of the pay might result. Also, by operation of law or regulation during the course of his [redacted] service, his entitlement to the disability pay might be cut off or in some way adjusted. We do not believe that we should be obligated in any way to the continuance of the disability pay under either of these circumstances and that this should be made a part of the record and acknowledged by the individual in each case.

Att-Memo for OGC fr C/SE/Per,  
dtd 7 May 56, same subject

LAWRENCE R. HOUSTON  
General Counsel

CC: DD/S  
C/SE/Pers.

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